

In re: HEARTLAND KENNELS, INC., A SOUTH DAKOTA CORPORATION; AND HALVOR SKAARHAUG, AN INDIVIDUAL.
AWA Docket No. 02-0004.
Order Denying Petition for Reconsideration.
Filed November 13, 2002.

AWA – Petition for reconsideration – Failure to deny allegations – Waiver of right to hearing – Default – Dealer – Civil penalty – License revocation – Cease and desist order.

The Judicial Officer denied Respondents' Petition for Reconsideration. The Judicial Officer rejected Respondents' late-filed request for an opportunity to defend against the allegations in the Complaint stating, by their failure to file a timely answer, Respondents had waived their right to a hearing and were deemed to have admitted the allegations in the Complaint (7 C.F.R. §§ 1.136(c), .139).

Colleen A. Carroll, for Complainant.

Respondents, Pro se.

Initial decision issued by James W. Hunt, Chief Administrative Law Judge.

Order issued by William G. Jenson, Judicial Officer.

PROCEDURAL HISTORY

Bobby R. Acord, Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], instituted this disciplinary administrative proceeding by filing a "Complaint" on October 3, 2001. Complainant instituted the proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) [hereinafter the Animal Welfare Act]; the regulations and standards issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-3.142) [hereinafter the Regulations and Standards]; and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice].

Complainant alleges that Heartland Kennels, Inc., and Halvor Skaarhaug [hereinafter Respondents] committed numerous willful violations of the Animal Welfare Act and the Regulations and Standards on March 24, 1998, October 21, 1998, February 9, 1999, October 19, 1999, and January 10, 2000 (Compl. ¶¶ 4-9).

The Hearing Clerk served Respondents with the Complaint, the Rules of Practice, and a service letter on October 15, 2001.¹ Respondents failed to answer the Complaint within 20 days after service, as required by section 1.136(a) of the Rules of Practice (7 C.F.R. § 1.136(a)). On December 4, 2001, the Hearing Clerk sent a letter to Respondents informing them that their answer to the Complaint had

¹United States Postal Service Domestic Return Receipts for Article Number 7099 3400 0014 4584 8479 and Article Number 7099 3400 0014 4584 8462.

not been received within the time required in the Rules of Practice.² On January 24, 2002, Respondents filed a late-filed answer to the Complaint, which does not deny or otherwise respond to the allegations in the Complaint.

On May 15, 2002, in accordance with section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), Complainant filed a “Motion for Adoption of Proposed Decision and Order” [hereinafter Motion for Default Decision] and a proposed “Decision and Order as to Heartland Kennels, Inc., and Halvor Skaarhaug By Reason of Admission of Facts” [hereinafter Proposed Default Decision]. The Hearing Clerk served Respondents with Complainant’s Motion for Default Decision, Complainant’s Proposed Default Decision, and a service letter on May 24, 2002.³

On June 13, 2002, Respondents requested an extension of time within which to file objections to Complainant’s Motion for Default Decision and Complainant’s Proposed Default Decision. Chief Administrative Law Judge James W. Hunt [hereinafter the Chief ALJ] granted Respondents’ request by extending Respondents’ time for filing objections to Complainant’s Motion for Default Decision and Complainant’s Proposed Default Decision to July 1, 2002.⁴ On July 3, 2002, Respondents requested a second extension of time to file objections to Complainant’s Motion for Default Decision and Complainant’s Proposed Default Decision, which the Chief ALJ denied.⁵

On July 15, 2002, pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), the Chief ALJ issued a “Decision and Order as to Heartland Kennels, Inc., and Halvor Skaarhaug By Reason of Admission of Facts” [hereinafter Initial Decision and Order]: (1) concluding that Respondents willfully violated the Animal Welfare Act and the Regulations and Standards as alleged in the Complaint; (2) directing Respondents to cease and desist from violating the Animal Welfare Act and the Regulations and Standards; (3) assessing Respondents jointly and severally a \$54,642.50 civil penalty; and (4) revoking Respondent Halvor Skaarhaug’s Animal Welfare Act license (Animal Welfare Act license number 46-B-0062).

On September 16, 2002, Respondents appealed to the Judicial Officer. On October 1, 2002, Complainant filed “Complainant’s Response to Respondents’ Motion to Set Aside Default Judgment.” On October 3, 2002, the Hearing Clerk

²Letter dated December 4, 2001, from Joyce A. Dawson, Hearing Clerk, to Respondent Halvor Skaarhaug.

³United States Postal Service Domestic Return Receipts for Article Number 7099 3400 0014 4581 8212 and Article Number 7099 3400 0014 4584 7878.

⁴Order Extending Time to File Response filed June 14, 2002.

⁵Order Denying Extension of Time to File Objections to Complainant’s Motion for Adoption of Proposed Decision filed July 5, 2002.

transmitted the record to the Judicial Officer for consideration and decision. On October 8, 2002, I issued a Decision and Order in which I adopted, with minor modifications, the Chief ALJ's Initial Decision and Order as the final Decision and Order. *In re Heartland Kennels, Inc.*, 61 Agric. Dec. ____ (Oct. 8, 2002).

On October 29, 2002, Respondents filed a "Petition for Reconsideration of Judicial Officer's Decision." On November 7, 2002, Complainant filed "Complainant's Response to Respondents' Petition for Reconsideration of Judicial Officer's Decision." On November 7, 2002, the Hearing Clerk transmitted the record of the proceeding to the Judicial Officer for reconsideration of the October 8, 2002, Decision and Order.

CONCLUSIONS BY THE JUDICIAL OFFICER ON RECONSIDERATION

Respondents request that they be given an opportunity defend against the allegations in the Complaint (Respondents' Petition for Reconsideration of Judicial Officer's Decision).

Respondents are deemed, for purposes of this proceeding, to have admitted the allegations in the Complaint because they failed to answer the Complaint within 20 days after the Hearing Clerk served them with the Complaint. Respondents' request to defend against the allegations in the Complaint comes far too late to be granted.

The Hearing Clerk served Respondents with the Complaint, the Rules of Practice, and the Hearing Clerk's October 4, 2001, service letter on October 15, 2001.⁶ Sections 1.136(a), 1.136(c), 1.139, and 1.141(a) of the Rules of Practice clearly state the time within which an answer must be filed and the consequences of failing to file a timely answer, as follows:

§ 1.136 Answer.

(a) *Filing and service.* Within 20 days after the service of the complaint . . . , the respondent shall file with the Hearing Clerk an answer signed by the respondent or the attorney of record in the proceeding

(c) *Default.* Failure to file an answer within the time provided under § 1.136(a) shall be deemed, for purposes of the proceeding, an admission of the allegations in the Complaint, and failure to deny or otherwise respond to an allegation of the Complaint shall be deemed, for purposes of the proceeding, an admission of said allegation, unless the parties have agreed to a consent decision pursuant to § 1.138.

⁶See note 1.

§ 1.139 Procedure upon failure to file an answer or admission of facts.

The failure to file an answer, or the admission by the answer of all the material allegations of fact contained in the complaint, shall constitute a waiver of hearing. Upon such admission or failure to file, complainant shall file a proposed decision, along with a motion for the adoption thereof, both of which shall be served upon the respondent by the Hearing Clerk. Within 20 days after service of such motion and proposed decision, the respondent may file with the Hearing Clerk objections thereto. If the Judge finds that meritorious objections have been filed, complainant's Motion shall be denied with supporting reasons. If meritorious objections are not filed, the Judge shall issue a decision without further procedure or hearing.

§ 1.141 Procedure for hearing.

(a) *Request for hearing.* Any party may request a hearing on the facts by including such request in the complaint or answer, or by a separate request, in writing, filed with the Hearing Clerk within the time in which an answer may be filed Failure to request a hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing.

7 C.F.R. §§ 1.136(a), (c), .139, .141(a).

Moreover, the Complaint clearly informs Respondents of the consequences of failing to file a timely answer, as follows:

The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

Compl. at 19.

Similarly, the Hearing Clerk informed Respondents in the October 4, 2001, service letter that a timely answer must be filed pursuant to the Rules of Practice and that failure to file a timely answer to any allegation in the Complaint would constitute an admission of that allegation, as follows:

October 4, 2001

Halvor Skaarhaug

Heartland Kennels, Inc.
Rural Route 1, Box 27
Greenville, South Dakota 57239

Dear Sir:

Subject: In re: Heartland Kennels, Inc., a South Dakota corporation; and
Halvor Skaarhaug, an individual - Respondents
AWA Docket No. 02-0004

Enclosed is a copy of a Complaint, which has been filed with this office under the Animal Welfare Act, as amended.

Also enclosed is a copy of the Rules of Practice which govern the conduct of these proceedings. You should familiarize yourself with the rules in that the comments which follow are not a substitute for their exact requirements.

The rules specify that you may represent yourself personally or by an attorney of record. Unless an attorney files an appearance in your behalf, it shall be presumed that you have elected to represent yourself personally. Most importantly, you have 20 days from the receipt of this letter to file with the Hearing Clerk an original and four copies of your written and signed answer to the complaint. It is necessary that your answer set forth any defense you wish to assert, and to specifically admit, deny or explain each allegation of the complaint. Your answer may include a request for an oral hearing. Failure to file an answer or filing an answer which does not deny the material allegations of the complaint, shall constitute an admission of those allegations and a waiver of your right to an oral hearing. In the event this proceeding does go to hearing, the hearing shall be formal in nature and will be held and the case decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

You must notify us of any future address changes. Failure to do so may result in a judgment being entered against you without your knowledge. We also need your present and future telephone number [sic].

Your answer, as well as any motions or requests that you may hereafter wish to file in this proceeding should be submitted in quadruplicate to the Hearing Clerk, OALJ, Room 1081, South Building, United States Department of Agriculture, Washington, D.C. 20250-9200.

Questions you may have respecting the possible settlement of this case should be directed to the attorney whose name and telephone number appears [sic] on the last page of the complaint.

Sincerely,

/s/

Joyce A. Dawson
Hearing Clerk

On December 4, 2001, the Hearing Clerk sent a letter to Respondents informing them that their answer to the Complaint had not been received within the time required in the Rules of Practice.⁷ On January 24, 2002, Respondents filed a letter in response to the Complaint. Respondents' late-filed response to the Complaint does not deny or otherwise respond to the allegations of the Complaint.⁸

Although, on rare occasions, default decisions have been set aside for good cause shown or where the complainant states that the complainant does not object to setting aside the default decision,⁹ generally there is no basis for setting aside a

⁷See note 2.

⁸Respondents filed a letter in response to the Complaint on January 24, 2002, 3 months 9 days after they were served with the Complaint. Respondents' response states in its entirety:

To whom it may concern

I was not aware of the original correspondence untill [sic] the Post Master asked me to sign the enclosed paper they were dropped off at my 89 year old mothers [sic] place and she forgot to give them to me. As far as response I have not sold a pup or dog since 1999 - I surrendered my license in Jan 2000 and surrendered the dogs in the Fall of 2000. USDA inspectors told me that would be the end of it all - am surprised to see this now.

Halvor Skaarhaug
RR 1 Box 27
Greenville, SD
57239

⁹See *Dale Goodale*, 60 Agric. Dec. 670 (2001) (Remand Order) (setting aside the default decision because the administrative law judge adopted apparently inconsistent findings of a dispositive fact in the default decision, and the order in the default decision was not clear); *In re Deora Sewnanan*, 60 Agric. Dec. 688 (2001) (setting aside the default decision because the respondent was not served with the complaint); *In re H. Schnell & Co.*, 57 Agric. Dec. 1722 (1998) (Remand Order) (setting aside the default decision, which was based upon the respondent's statements during two telephone conference calls with the administrative law judge and the complainant's counsel, because the respondent's statements did not constitute a clear admission of the material allegations in the complaint and concluding that the default decision deprived the respondent of its right to due process under the Fifth Amendment to the Constitution of the United States); *In re Arizona Livestock Auction, Inc.*, 55 Agric. Dec. 1121 (1996) (setting aside the default decision because facts alleged in the complaint and deemed

default decision that is based upon a respondent's failure to file a timely answer.¹⁰

admitted by failure to answer were not sufficient to find a violation of the Packers and Stockyards Act or jurisdiction over the matter by the Secretary of Agriculture); *In re Veg-Pro Distributors*, 42 Agric. Dec. 273 (1983) (Remand Order) (setting aside the default decision because service of the complaint by registered and regular mail was returned as undeliverable, and the respondent's license under the PACA had lapsed before service was attempted), *final decision*, 42 Agric. Dec. 1173 (1983); *In re Vaughn Gallop*, 40 Agric. Dec. 217 (1981) (Order Vacating Default Decision and Remanding Proceeding) (vacating the default decision and remanding the case to the administrative law judge to determine whether just cause exists for permitting late answer), *final decision*, 40 Agric. Dec. 1254 (1981); *In re J. Fleishman & Co.*, 38 Agric. Dec. 789 (1978) (Remand Order) (remanding the proceeding to the administrative law judge for the purpose of receiving evidence because the complainant had no objection to the respondent's motion for remand), *final decision*, 37 Agric. Dec. 1175 (1978); *In re Richard Cain*, 17 Agric. Dec. 985 (1958) (Order Reopening After Default) (setting aside a default decision and accepting a late-filed answer because the complainant did not object to the respondent's motion to reopen after default).

¹⁰See generally *In re Steven Bourk* (Decision as to Steven Bourk and Carmella Bourk), 61 Agric. Dec. 25 (2002) (holding the default decision was properly issued where Respondent Steven Bourk's first and only filing was 10 months 9 days after he was served with the complaint and Respondent Carmella Bourk's first filing was 5 months 5 days after she was served with the complaint; stating both respondents are deemed, by their failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations alleged in the complaint); *In re Beth Lutz*, 60 Agric. Dec. 53 (2001) (holding the default decision was properly issued where the respondent filed her answer 23 days after she was served with the complaint and 3 days after the respondent's answer was due and holding the respondent is deemed, by her failure to file a timely answer, to have admitted the violations of the Regulations alleged in the complaint); *In re Curtis G. Foley*, 59 Agric. Dec. 581 (2000) (holding the default decision was properly issued where the respondents filed their answer 6 months 5 days after they were served with the complaint and 5 months 16 days after the respondents' answer was due and holding the respondents are deemed, by their failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re Nancy M. Kutz* (Decision as to Nancy M. Kutz), 58 Agric. Dec. 744 (1999) (holding the default decision was properly issued where the respondent's first filing in the proceeding was 28 days after service of the complaint on the respondent and the filing did not respond to the allegations of the complaint and holding the respondent is deemed, by her failure to file a timely answer and by her failure to deny the allegations of the complaint, to have admitted the violations of the Animal Welfare Act and the Regulations alleged in the complaint); *In re Anna Mae Noell*, 58 Agric. Dec. 130 (1999) (holding the default decision was properly issued where the respondents filed an answer 49 days after service of the complaint on the respondents and holding the respondents are deemed, by their failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint), *appeal dismissed sub nom. The Chimp Farm, Inc. v. United States Dep't of Agric.*, No. 00-10608-A (11th Cir. July 20, 2000); *In re Jack D. Stowers*, 57 Agric. Dec. 944 (1998) (holding the default decision was properly issued where the respondent filed his answer 1 year 12 days after service of the complaint on the respondent and holding the respondent is deemed, by his failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re James J. Everhart*, 56 Agric. Dec. 1400 (1997) (holding the default decision was properly issued where the respondent's first filing was more than 8 months after service of the complaint on the respondent and holding the respondent is deemed, by his failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations alleged in the complaint); *In re John Walker*, 56 Agric. Dec. 350 (1997) (holding the default decision was properly issued where the respondent's first filing was 126 days after service of

The Rules of Practice provide that an answer must be filed within 20 days after service of the complaint (7 C.F.R. § 1.136(a)). Respondents failed to file a timely answer. Moreover, when Respondents did file an answer, 3 months 9 days after being served with the Complaint, Respondents failed to deny or otherwise respond to the allegations of the Complaint. Respondents' failure to file a timely answer is deemed, for purposes of this proceeding, an admission of the allegations in the Complaint and constitutes a waiver of hearing (7 C.F.R. §§ 1.136(c), .139, .141(a)). Respondents' failure to deny or otherwise respond to the allegations of the Complaint is deemed, for purposes of this proceeding, an admission of the

the complaint on the respondent and holding the respondent is deemed, by his failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re Mary Meyers*, 56 Agric. Dec. 322 (1997) (holding the default decision was properly issued where the respondent's first filing was 117 days after the respondent's answer was due and holding the respondent is deemed, by her failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re Dora Hampton*, 56 Agric. Dec. 301 (1997) (holding the default decision was properly issued where the respondent's first filing was 135 days after the respondent's answer was due and holding the respondent is deemed, by her failure to file a timely answer, to have admitted the violations of the Regulations and Standards alleged in the complaint); *In re City of Orange*, 55 Agric. Dec. 1081 (1996) (holding the default decision was properly issued where the respondent's first filing was 70 days after the respondent's answer was due and holding the respondent is deemed, by its failure to file a timely answer, to have admitted the violations of the Regulations and Standards alleged in the complaint); *In re Ronald DeBruin*, 54 Agric. Dec. 876 (1995) (holding the default decision was properly issued where the respondent failed to file an answer and holding the respondent is deemed, by his failure to file an answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re James Joseph Hickey, Jr.*, 53 Agric. Dec. 1087 (1994) (holding the default decision was properly issued where the respondent failed to file an answer and holding the respondent is deemed, by his failure to file an answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re Ron Morrow*, 53 Agric. Dec. 144 (1994) (holding the default decision was properly issued where the respondent was given an extension of time until March 22, 1994, to file an answer, but the answer was not received until March 25, 1994, and holding the respondent is deemed, by his failure to file a timely answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint), *aff'd per curiam*, 65 F.3d 168 (Table), 1995 WL 523336 (6th Cir. 1995); *In re Dean Daul*, 45 Agric. Dec. 556 (1986) (holding the default decision was properly issued where the respondent failed to file a timely answer and, in his late answer, did not deny the material allegations of the complaint and holding the respondent is deemed, by his failure to file a timely answer and by his failure to deny the allegations in the complaint in his late answer, to have admitted the violations of the Animal Welfare Act and the Regulations alleged in the complaint); *In re Ronald Jacobson*, 43 Agric. Dec. 780 (1984) (holding the default decision was properly issued where the respondents failed to file a timely answer and holding the respondents are deemed, by their failure to file a timely answer, to have admitted the violations of the Standards alleged in the complaint); *In re Willard Lambert*, 43 Agric. Dec. 46 (1984) (holding the default decision was properly issued where the respondent failed to file an answer and holding the respondent is deemed, by his failure to file an answer, to have admitted the violations of the Animal Welfare Act and the Regulations and Standards alleged in the complaint); *In re Randy & Mary Berhow*, 42 Agric. Dec. 764 (1983) (holding the default decision was properly issued where the respondents failed to file an answer and holding the respondents are deemed, by their failure to file an answer, to have admitted the violations of the Standards alleged in the complaint).

allegations in the Complaint and constitutes a waiver of hearing (7 C.F.R. §§ 1.136(c), .139, .141(a)).

Accordingly, there are no issues of fact on which a meaningful hearing could be held in this proceeding, and the Chief ALJ properly issued the Initial Decision and Order. Application of the default provisions of the Rules of Practice does not deprive Respondents of their rights under the due process clause of the Fifth Amendment to the Constitution of the United States.¹¹

For the foregoing reasons and the reasons set forth in *In re Heartland Kennels, Inc.*, 61 Agric. Dec. ____ (Oct. 8, 2002), Respondents' Petition for Reconsideration of Judicial Officer's Decision is denied.

Section 1.146(b) of the Rules of Practice (7 C.F.R. § 1.146(b)) provides that the decision of the Judicial Officer shall automatically be stayed pending the determination to grant or deny a timely-filed petition for reconsideration.¹² Respondents' Petition for Reconsideration of Judicial Officer's Decision was timely filed and automatically stayed the October 8, 2002, Decision and Order. Therefore, since Respondents' Petition for Reconsideration of Judicial Officer's Decision is denied, I hereby lift the automatic stay, and the Order in *In re Heartland Kennels, Inc.*, 61 Agric. Dec. ____ (Oct. 8, 2002), is reinstated; except that the effective date of the Order is the date indicated in the Order in this Order Denying Petition for Reconsideration.

For the foregoing reasons, the following Order should be issued.

ORDER

¹¹ See *United States v. Hulings*, 484 F. Supp. 562, 567-68 (D. Kan. 1980) (concluding that a hearing was not required under the Fifth Amendment to the Constitution of the United States where the respondent was notified that failure to deny the allegations of the complaint would constitute an admission of those allegations under the Rules of Practice and the respondent failed to specifically deny the allegations). See also *Father & Sons Lumber and Building Supplies, Inc. v. NLRB*, 931 F.2d 1093, 1096 (6th Cir. 1991) (stating that due process generally does not entitle parties to an evidentiary hearing where the National Labor Relations Board has properly determined that a default summary judgment is appropriate due to a party's failure to file a timely response); *Kirk v. INS*, 927 F.2d 1106, 1108 (9th Cir. 1991) (rejecting the contention that the administrative law judge erred by issuing a default judgment based on a party's failure to file a timely answer).

¹² *In re Karl Mitchell*, 60 Agric. Dec. 647, 667 (2001) (Order Granting Complainant's Pet. for Recons.); *In re Reginald Dwight Parr*, 59 Agric. Dec. 629, 647 (2000) (Order Denying Respondent's Pet. for Recons.); *In re James E. Stephens*, 58 Agric. Dec. 201, 209 (1999) (Order Denying Pet. for Recons.); *In re Judie Hansen*, 58 Agric. Dec. 369, 387 (1999) (Order Denying Pet. for Recons.); *In re David M. Zimmerman*, 58 Agric. Dec. 336, 338-39 (1999) (Order Denying Pet. for Recons.); *In re C.C. Baird*, 57 Agric. Dec. 1284, 1299 (1998) (Order Denying in Part and Granting in Part Pet. for Recons.); *In re Peter A. Lang*, 57 Agric. Dec. 91, 110 (1998) (Order Denying Pet. for Recons.); *In re Samuel Zimmerman*, 56 Agric. Dec. 1458, 1467 (1997) (Order Denying Pet. for Recons.); *In re Volpe Vito, Inc.*, 56 Agric. Dec. 269, 275 (1997) (Order Denying Pet. for Recons.); *In re City of Orange*, 56 Agric. Dec. 370, 371 (1997) (Order Granting Request to Withdraw Pet. for Recons.).

1. Respondents, their agents, employees, successors, and assigns, directly or indirectly through any corporate or other device, shall cease and desist from violating the Animal Welfare Act and the Regulations and Standards.

The cease and desist provisions of this Order shall become effective on the day after service of this Order on Respondents.

2. Respondents are jointly and severally assessed a \$54,642.50 civil penalty. The civil penalty shall be paid by certified check or money order made payable to the Treasurer of the United States and sent to:

Colleen A. Carroll
United States Department of Agriculture
Office of the General Counsel
Marketing Division
1400 Independence Avenue, SW
Room 2343-South Building
Washington, DC 20250-1417

Respondents' payment of the \$54,642.50 civil penalty shall be sent to, and received by, Colleen A. Carroll within 60 days after service of this Order on Respondents. Respondents shall state on the certified check or money order that payment is in reference to AWA Docket No. 02-0004.

3. Respondent Halvor Skaarhaug's Animal Welfare Act license (Animal Welfare Act license number 46-B-0062) is revoked. The Animal Welfare Act license revocation provisions of this Order shall become effective on the 60th day after service of this Order on Respondent Halvor Skaarhaug.

4. Respondents have the right to seek judicial review of this Order in the appropriate United States Court of Appeals in accordance with 28 U.S.C. §§ 2341, 2343-2350. Such court has exclusive jurisdiction to enjoin, to set aside, to suspend (in whole or in part), or to determine the validity of this Order. Respondents must seek judicial review within 60 days after entry of this Order. 7 U.S.C. § 2149(c). The date of entry of this Order is November 13, 2002.
